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September 18, 2013

VIA FACSIMILE TO (212) 805-7986

Hon. Paul G. Gardephe
United States District Judge
United States District Court
for the Southern District of New York
40 Foley Square, Rm. 2204
New York, NY 10007

Re: *United States v. Martoma*, No. 12 Cr. 973 (PGG)

Dear Judge Gardephe:

I write again to update the Court on the status of the *Countrywide* matter before Judge Rakoff, and to renew Mr. Martoma's request for an adjournment of his November 4, 2013 trial date.

The *Countrywide* trial is now scheduled to begin in **four** business days, and by the time the *Countrywide* trial starts I will have lost close to two months of preparation time that otherwise would have been primarily devoted to Mr. Martoma's case. More urgently, the October 4 deadline to file motions *in limine*, requested *voir dire*, and requests to charge in Mr. Martoma's case is approaching quickly, and I have been unable to devote my attention to those papers due to the trial conflict.¹

We also note that our efforts to finalize motions *in limine* and prepare for trial are subject to Mr. Martoma's still-pending motion to compel. The University of Michigan awaits Your Honor's instructions on the scope of its required document production. Once the University receives an order, it will need time to collect, review, and produce documents to the Court. The new materials will require further analysis by the Court, with a decision on the pending motion

¹ By way of comparison, the defendant in a *re-trial* of a securities fraud case, originally tried in June of this year, was recently granted a seven-week adjournment by Judge Crotty due to his counsel's trial conflict, a pre-existing conflict that was not raised until months *after* the Court had already scheduled the case for re-trial. *U.S. v. Balboa*, 12 Cr. 196 (PAC). Here, we have been completely transparent about my longstanding commitment to the *Countrywide* trial, raising this issue in our very first appearance before Your Honor, and raising it to the Government even earlier.

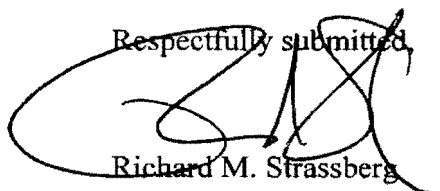
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to compel likely falling after the deadline for motions *in limine* and close to the scheduled trial date.

We continue to request an adjournment of the trial date until February 2014. As Your Honor noted at the June 5, 2013 conference, "if [the *Countrywide* trial] poses an insurmountable difficulty for you to properly prepare for this one, you will bring that to my attention, and I'll adjourn the trial date..." June 5, 2013 Hearing Transcript at 18. Your Honor, the upcoming *Countrywide* trial is already posing an insurmountable difficulty for me to prepare properly for Mr. Martoma's case, and we respectfully request that Mr. Martoma's case be adjourned now. As noted in our previous submissions, we respectfully submit that this adjournment would have no material impact on the Government, but would avoid significant prejudice to Mr. Martoma.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "R. Strassberg", written over the typed name.

Richard M. Strassberg

Cc: Arlo Devlin Brown (by e-mail)
Eugene Ingoglia (by e-mail)